

### Remarks

The examiner has rejected claims 1-8, 13-23, 25, and 27-29 as anticipated by U.S. patent no. 6,386,314 B1 to Sheehan. ("Sheehan"). The applicants respectfully traverse these rejections, as explained below.

#### *Claims 1-8, 13 - 14, and 25.*

These claims are patentable over Sheehan for two reasons.

First, all these claims now require a "highly flexible flange," but Sheehan's flange is not highly flexible. Most of Sheehan's embodiments do not have a flange at all, but instead only have an annular side wall made of thick foam called a "baffle." *See e.g. Fig. 1.* This baffle is not very flexible, since it is "preferably constructed of a resilient open-celled foam." *Col. 14, lines 43-46.* To improve flexibility, Sheehan proposes including cuts or slits in the baffle. *See e.g. Col. 8, line 35 to Col. 10, line 25.*

Sheehan does have one embodiment in which the baffle is bent to form a flange. *See Fig. 24, Col. 12, line 58 to Col. 13, line 13.* However, in this embodiment, there are no cuts or slits shown to improve flexibility. Sheehan does not state that such cuts can or should be made in the baffle/flange, nor does it provide any teaching as to where such cuts should be made if a flange is used. Thus, Sheehan's flange is simply the "resilient" foam, and is not "highly flexible."

Second, each of these claims now require a flange that substantially circumscribes the annular side wall, but Sheehan does not reveal such a flange. The examiner has asserted that Fig. 25 reveals Sheehan's flange, but this figure only shows "tabs." *Col 13, line 15.* Perhaps the examiner equates "tabs" with a "flange." But even if Sheehan's "tabs" can be considered to form a "flange," these tabs do not circumscribe

the annular side wall, but instead are just placed at the corners.

Likewise, Fig. 24 of Sheehan is a cross-sectional side view, and there is no disclosure in Sheehan showing or describing a flange extending substantially all the way around the annular side wall.

Therefore, Sheehan lacks two features of these claims as amended, namely a flange that is (i) highly flexible, and (ii) that substantially circumscribes the annular side wall. Under these circumstances, there can be no anticipation. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed. Cir. 1984) (“[a]nticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim”).

#### ***Claims 17 - 23 and 27 - 29***

Each of these claims contains the limitation that the ear coupler must be a “one-piece body.” The examiner does not explicitly discuss this limitation, but does assert that Sheehan’s bottom wall is “integral” with Sheehan’s “annular wall.”

The applicant respectfully traverses this assertion. Sheehan’s “lid” (i.e. its bottom wall) is “*attached*” to its baffle (i.e. its side wall), which means that the two pieces are not part of a “one-piece” body. *Col 12, lines 43 - 48*. If the lid and baffle were “one piece,” they would not be “attached” to each other.

Further proving the point, Sheehan’s only exploded view shows the lid *separate* from the baffle. *See Fig. 1*. Sheehan’s ear coupler is simply not “one-piece.”

***Claims 2, 21, 23, and 27***

These claims require that either the "body" of the ear coupler or its "annular side wall and bottom wall" be "transparent." But Sheehan only has a transparent "lid" (i.e. bottom wall), and therefore cannot anticipate these claims. *See Col. 3, lines 59-60.*

Sheehan's side wall (i.e., its baffle) is never described as transparent, but instead is made of a "resilient open-celled foam" -- hardly a transparent material. *Col. 14, lines 43-46.*

***Claims 6, 7, and 14***

These claims require a "barrier" for containing adhesive on the highly-flexible flange. Sheehan does not recite or otherwise reveal such a barrier, and therefore does not anticipate these claims.

***Claim 7***

This claim requires a *second* set of surface features to aid in coating the flexible flange with adhesive. As the examiner has noted, Sheehan recites a *first* set of surface features, on its lid. *See Fig. 13.* But it does not reveal a second set of surface features on the flange, and therefore does not anticipate this claim.

***Claims 13 and 22***

These claims require a "tab integral with said highly flexible flange," but Sheehan has no such element. Sheehan has tabs *on the baffle*, (see Fig. 26), and it has a flange (see Fig. 24), but it does not show tabs on the flange, and therefore does not anticipate these claims.

**Version with Markings to Show Changes Made**

As required by 37 C.F.R. 1.121(b)(1)(iii) and 37 C.F.R. 1.1.21(c)(1)(ii), the applicant provides a marked-up version of the amended specification and claims.

- 1.) (once amended) An ear coupler comprising:
  - an annular side wall;
  - a bottom wall, integral with said annular side wall;
  - an internal chamber, formed by said bottom wall and said annular side wall;
  - a port in said annular side wall; and
  - a highly flexible flange extending from and substantially around said annular side wall.
- 6.) (once amended) The ear coupler according to claim 1 or 2, wherein said highly flexible flange is coated with adhesive, and wherein said highly flexible flange includes a barrier for containment of said adhesive.
- 7.) (once amended) The ear coupler according to claim 6, wherein said highly flexible flange additionally includes a second set of surface features to aid in coating said highly flexible flange with said adhesive.
- 13.) (once amended) The ear coupler according to claim 1 or 2, additionally comprising a tab integral with said highly flexible flange.
- 14.) (once amended) An ear coupler comprising:
  - an annular side wall;
  - a bottom wall, integral with said annular side wall;
  - an internal chamber, formed by said bottom wall and said annular side wall;

a port in said annular side wall; and  
a highly flexible flange extending from and substantially  
around said annular side wall, said flange being coated  
adhesive, and having a barrier for containment of said  
adhesive.

Claims 15 and 16 have been canceled.

- 20.) (once amended) The ear coupler according to claim 18 or 19, wherein the means for attaching the ear coupler to a subject's head is a highly flexible flange, coated with adhesive, disposed around said chamber.
- 22.) (once amended) The ear coupler according to claim 20, additionally comprising a tab integral with said highly flexible flange.
- 25.) (once amended) An ear coupler comprising:  
an annular side wall;  
a bottom wall, connected with said annular side wall;  
an internal chamber, formed by said bottom wall and said annular side wall;  
a port in said annular side wall; and  
a highly flexible flange connected with and substantially  
circumscribing said annular side wall, said flexible flange  
being coated with an adhesive for attaching the ear coupler  
to a subject's head.
- 27.) (once amended) A method for assembling an ear coupler, comprising the steps of:  
providing a one-piece transparent body, said body  
having an annular side wall, a bottom wall, and a highly  
flexible flange;

Response to Office Action  
Ser. No. 09/941,132  
January 4, 2003  
Page 9

defining a port for entry of an acoustic transducer  
assembly in said annular side wall; and  
dispensing an adhesive on said highly flexible flange.

*Conclusion*

The applicant urges the examiner to issue a speedy allowance of all pending claims of the present application.

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